

EXHIBIT A

Volume 2

Pages 175 - 340

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Before The Honorable Richard Seeborg, Judge

ANIBAL RODRIGUEZ, et al.,)	
individually and on behalf of)	
all others similarly situated,)	
)	
Plaintiffs,)	
)	
VS.)	NO. 3:20-CV-04688 RS
)	
GOOGLE LLC,)	
)	
Defendant.)	
_____)	

San Francisco, California
Tuesday, August 19, 2025

TRANSCRIPT OF JURY TRIAL PROCEEDINGS

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CSR No. 7445, Official United States Reporter

1 Q. Okay. Let's look at one of them. Take a look on your
2 screen, please, Plaintiffs' Exhibit 2. This is entitled --
3 it's Google's -- it's an April 27, 2020, summary of a retention
4 controls comprehension study; fair?

5 A. Correct.

6 Q. And the first page identifies Nava -- and I'm going to do
7 some damage here -- I think it's Zokaei as the point of
8 contact?

9 A. Correct.

10 Q. But she is somebody who you worked with; correct?

11 A. That's right. She was a researcher on the Web & App
12 Activity Team.

13 Q. Exactly. Just like Mr. de Booij. What she was --

14 A. Exactly.

15 Q. -- was a user experience researcher; fair?

16 A. Fair.

17 Q. Okay. And you worked with her on retention control
18 projects like this one; correct?

19 A. That's right.

20 Q. And we know you worked with her here because your name is
21 on the cover; correct?

22 A. Correct.

23 MR. CARMODY: I move into evidence, Your Honor, PX2.

24 MR. SANTACANA: No objection.

25 THE COURT: Exhibit Number 2 will be admitted.

(Trial Exhibit PX2 received in evidence.)

BY MR. CARMODY:

Q. So let's turn to page 6.

It says "Research Questions," and there's four of them, and they've got little parts and stuff underneath. But let's just focus on the very top one.

And the context here, by the way, timewise, is this is just what? Nine months after your exchanges with Mr. Ruemmler; correct?

A. Yeah.

Q. Okay. So we're going back. And the very first question says -- and this is -- this is an internal Google research study; correct?

A. Correct.

Q. [As read]:

"What do WAA users expect turning off WAA to mean?"

That was the question, the very first thing we see?

A. Yeah, one of the objectives of the study.

Q. Okay. And if we now turn to the next page -- or it's actually page, I want to say, 7, it talks about the methods and the procedure, how Google's going to go about doing it; right?

A. Correct.

Q. Okay. And if we take a look here on the left side, it says there's going to be nine participants, five female and

1 four male. They're going to each have 30-minute interviews.

2 And then as to the procedure, we can turn to the right.

3 Do you see that?

4 A. Yes.

5 Q. And underneath that, sir, we see five things: "Background
6 questions," "Reaction to the Activities Control page" -- PX84;
7 correct?

8 A. Correct.

9 Q. "Expectation of WAA Off"; correct?

10 A. Correct.

11 Q. "Retention Flow walkthrough"; correct?

12 A. Correct.

13 Q. And the finale is "WAA off and No Data Scenario"; correct?

14 A. Correct.

15 Q. Now turn to page 8, and we're looking at the people
16 themselves. And it looks like we have a fair cross-section of
17 people; correct?

18 A. I think so.

19 Q. I mean, some are knowledgeable, very knowledgeable about
20 tech issues. Some are -- some people are somewhat
21 knowledgeable. We have male and female. We have folks from
22 different ages. Fair?

23 A. Fair.

24 Q. And this research resulted in the 50-page presentation
25 that we're looking at now; correct?

1 A. That's correct.

2 Q. This research was approved by Google?

3 A. It was conducted by Google.

4 Q. I mean, you followed all the normal standards that Google
5 wants its researchers to follow to come out with a legitimate
6 bona fide study; correct?

7 A. Oh, I see. I understand.

8 There's a lot of different kinds of studies that we do. I
9 would assume that Nava, who's very familiar with this, would be
10 following whatever best practices Google has.

11 Q. In fairness, before this lawsuit, nobody ever suggested
12 that this study or its results were somehow inappropriate;
13 correct?

14 A. Correct.

15 Q. Okay.

16 A. I've never heard that.

17 Q. Let's take a look at the results. Let's turn to page 20.
18 If you -- why don't we go top left in the big -- the big
19 lettering [as read]:

20 "All participants expected turning off the
21 toggle to stop their activity from being saved."

22 Do you see that?

23 A. Yes, I do.

24 Q. And the toggle they're referring to is the very toggle
25 behind me here in the courtroom. I'm pointing to a foam board

1 of PX84; correct?

2 A. Correct.

3 Q. And the toggle is this turn on here and turn off here;
4 correct?

5 A. Correct.

6 Q. Okay. And what these users say -- and let's even step
7 back a second.

8 In fairness, Chris Ruemmler's concerns were well-founded,
9 his fears where he said he asked you three questions about a
10 research study. Remember that?

11 A. Yes, I do.

12 Q. And he feared people like him wouldn't understand what
13 WAA off means.

14 In fairness, Mr. Ruemmler was vindicated. I mean, this is
15 what we see; correct?

16 A. No. This study is testing a very different concept.
17 Actually, it's cool that we have the foam core up here because
18 if you look, it's a little bit below the table there, but it's
19 the auto delete section. We were creating a brand-new type of
20 control and that's what we were adding here.

21 What Mr. Ruemmler was discussing on the last email
22 chain --

23 Q. Yeah.

24 A. -- that we were looking at was about, remember that
25 proposal for changing the way WAA-off logging would work.

1 The research we're doing here wasn't, I think, related.
2 This project wasn't related at all, I think, to what
3 Mr. Ruemmeler and I were discussing on that email chain --

4 Q. But it doesn't say that --

5 A. -- that we were just looking at.

6 (Simultaneous cross-talk.)

7 (Reporter interrupts to clarify the record.)

8 THE WITNESS: -- that we were just looking at.

9 BY MR. CARMODY:

10 Q. Are you telling us that's what this -- you have an
11 independent recollection of all this?

12 A. No. What I'm saying is, just from reading that email that
13 we were just looking at, I think when Mr. Ruemmeler mentioned
14 research, he's asking research clearly in the context of the
15 change --

16 Q. Okay.

17 A. -- to the way WAA-off logging works.

18 This research wasn't testing that. This is a very
19 specific research study we did.

20 Q. I can -- I'm kind of semi-comfortable with this now, these
21 50 pages. But you're saying -- you're not questioning what's
22 presented here. You're saying I wasn't fairly describing what
23 Mr. Ruemmeler's concerns are; correct?

24 A. That's correct.

25 Q. Okay. And the concerns we spent some time on going over

1 in PX3?

2 **A.** Correct. This research is very unrelated to I think in
3 PX3. That was the exhibit we were discussing.

4 **Q.** And PX3, in fairness, you tell us you didn't respond to
5 those concerns. You set up a meeting, and you and a lawyer met
6 with Mr. Ruemmler. And we've never seen another communi- --
7 another written communication about it; correct?

8 **A.** Correct.

9 **Q.** Okay. But now let's take a look. We all have our
10 recollection of exactly what Mr. Ruemmler said. And we're
11 going to go back to it as well.

12 But what we see here is, like Mr. Ruemmler [as read]:

13 "All participants expecting" -- "expected
14 turning off the toggle" --

15 And that's referring to the WAA toggle?

16 **A.** That's right.

17 **Q.** [As read]:

18 -- "to stop their activity from being saved."

19 And being saved by Google; fair?

20 **A.** Fair, being saved by Google in their Google Account, like
21 it says right up there at the top.

22 **Q.** And if you take a look at the right side of the page, you
23 see that "Activity Controls"?

24 **A.** Yeah.

25 **Q.** We're looking -- I mean, it's like a mirror image. If

1 we're looking what I have behind me in a courtroom and we're
2 looking at what people in the Google research study were tested
3 on, we see it's the same thing; right?

4 **A.** It's a little bit different. This was a test, like a
5 prototype, so kind of like a concept that we were testing that
6 I think changed a few more times before we finally launched
7 kind of what you see up on the big board.

8 **Q.** But take a look --

9 **MR. CARMODY:** Mr. Boles, can you blow up, please, the
10 top of that.

11 **BY MR. CARMODY:**

12 **Q.** I mean, it says -- I'm looking at [as read]:

13 "Choose which settings will save data in your
14 Google Account."

15 And then right underneath that --

16 **MR. CARMODY:** Let's blow it up.

17 Oh, is that the best we can do?

18 Oh, thank you.

19 **BY MR. CARMODY:**

20 **Q.** So it says [as read]:

21 "The data saved in your account helps give you
22 more personalized experiences across all Google
23 services."

24 Do you see it right here, it was word for word?

25 **A.** Yes, I do.

MONSEES - DIRECT / CARMODY

1 Q. Okay. And then we have -- well, in fact, let's move on
2 here to the next one because I can see my time is getting close
3 here.

4 So I'm going to run on to the next exhibit. Take a look
5 at PX9.

6 Well, and before I do -- actually, before I do, are you
7 aware of a single research study that Google can bring into
8 this courtroom where it shows, oh, gosh all the users really
9 did understand when you turn off WAA, we're collecting your
10 information and we're actually making money on it? Is there
11 ever such a study?

12 A. I don't think we normally test broad study like that.
13 There's nothing I'm aware of.

14 Q. Okay. Okay. Let's go to PX9, then.

15 We've spoken about Chris Ruemmler. And it's fair to say
16 that other Google employees also commented on Google users'
17 comprehension of WAA and the WAA button; fair?

18 A. That's fair.

19 Q. Okay. Okay. And we're looking at this document now, PX9,
20 which is dated June 8th of 2020, just two months after the
21 study we just saw in PX2; correct?

22 A. That's correct.

23 Q. And now we have the author of this document is
24 Arne de Booiij. Do you see that?

25 A. Yes, I do.

1 Q. We spoke about him earlier in the examination because he
2 was the gentleman who was on the document talking about
3 feelings of user control gives them trust in Google; right?

4 A. That's correct.

5 Q. Okay. So Mr. de Booij, you know him. You said he was an
6 experience -- a user experience researcher, somebody that you
7 worked with; fair?

8 A. That's fair.

9 MR. CARMODY: Okay. I'm going to move in PX9.

10 MR. SANTACANA: No objection, Your Honor.

11 THE COURT: Exhibit 9 will be admitted.

12 (Trial Exhibit PX9 received in evidence.)

13 BY MR. CARMODY:

14 Q. Now, the research project here was code-named
15 Express Echna?

16 A. Echidna.

17 Q. Echidna. Okay.

18 A. Some of the names are cute. This was an account creation
19 flow in Europe.

20 Q. Turn to page 4, please.

21 We can see here on the left side, if we want to look at
22 the format, it has -- because we're going to look at a column
23 coming up where we can't see the kind of the format so well.

24 So what we can see is the left column says "Research
25 Question." Then it talks about what the goal is in the middle.

1 And then you see on the right "Hypothesis"; right?

2 **A.** I do.

3 **Q.** Okay. So that was kind of -- that's the format.

4 So now let's take a look and turn to page 6 and kind of
5 look at what's written there right around the middle of the
6 page. Okay?

7 So the question being posed is [as read]:

8 "What do most respondents believe the effect of
9 turning off the WAA button will have on the amount of
10 data collected..."

11 And there's a second one. I want to stop here.

12 Well, we can even go on to it. Just say [as read]:

13 "... and the amount of personalization they will
14 experience?"

15 Do you see that, sir?

16 **A.** Yes, I do.

17 **Q.** Okay. Then if we go to the right, there's a hypothesis.
18 And, in fact, because there are two questions, we have two
19 hypotheses; right? Correct?

20 **A.** Correct.

21 **Q.** Let's take them one at a time.

22 First hypothesis to the question in (a). Reminder, the
23 question is [as read]:

24 "What do most respondents believe the effect of
25 turning off WAA will have on the amount of data

1 that's collected by Google?"

2 The hypothesis by Mr. de Booij is [as read]:

3 "Most respondents will believe that turning off
4 WAA will result in no data being collected from their
5 activity."

6 That was the hypothesis; correct?

7 **A.** Correct.

8 **Q.** And then he goes on to say, and in answering the question
9 in (b), the amount of personalization these users will
10 experience, he says [as read]:

11 "... and no personalization in Google products
12 and services."

13 Correct?

14 **A.** That's correct.

15 **Q.** So if we take them a step at a time, we can look and see
16 that he described up top what was actually happening in Google
17 at the time when he says "Most respondents will believe that
18 turning off data will result" -- or let me back up. Maybe I
19 got it backwards here.

20 [As read]:

21 "Most respondents will believe that turning off
22 WAA will result in no data being collected from their
23 activity...."

24 That's what Mr. Ruemmler said in his email that we've
25 looked at, PX3; correct? It was his last question.

1 A. Correct.

2 Q. Okay. And then it says [as read]:

3 "... and no personalization in Google products
4 and services."

5 Correct?

6 A. That's correct.

7 Q. Now, a hypothesis is part of the scientific process. It's
8 a prediction; right?

9 A. That's correct.

10 Q. They use -- Mr. de Booi's prediction was made one month
11 before this lawsuit. Do you know that?

12 A. No, I did not.

13 Q. Okay. I didn't until recently.

14 Okay. And Mr. de Booi's hypothesis is certainly
15 consistent with the research study we went over, PX2; correct?

16 A. Correct.

17 Q. Where all participants believe that when they put their
18 WAA button on off, Google wasn't collecting any data at all;
19 fair?

20 A. Well, I think --

21 Q. That was "yes"?

22 A. -- that was partially fair.

23 I think it's, they're not collecting any data at all in
24 their Web & App Activity in their account, given that that was
25 a Web & App Activity study and this is an account creation

1 study.

2 Q. But it's interesting you say that because it doesn't --
3 what you just told us, you can't find in this 50-page study we
4 just looked at; right?

5 A. Well, it's a study about the Web & App Activity setting
6 that we were looking at. It's very specific about the data
7 that goes into that bucket when the setting is on and off.

8 Q. And the user comprehension when the WAA toggle is off,
9 that Google is not collecting anybody's activity; fair? That's
10 what the finding was?

11 A. In their Google Account. It's a Google Account setting
12 study. So I think that context is important, I thought.

13 Q. My question to you is: Can you show us where in this
14 50-page -- do we need to go back to PX2?

15 Are you telling us somewhere in this 50-page document I
16 missed the point? It's not whether Google collects your data;
17 it's just where we put it?

18 A. I think the point on that exhibit, if we want to go back,
19 is that if you look at --

20 Q. No.

21 A. -- what the study was for, we were requesting a study
22 about an auto delete feature we were launching as part of your
23 Web & App Activity. So I think it's kind of obvious probably
24 to the folks working on it that we're talking about Web & App
25 Activity, Google Account data, not other non-account data.

1 Q. You understand that retention controls were a separate
2 part of this 50-page study? It had nothing to do with the
3 findings we just looked at?

4 A. No. The retention study that we were looking at is a
5 study specifically about the creation of these retention
6 controls. It was one of many studies that we did.

7 Q. Let me just --

8 A. Can we bring the exhibit back up if we're talking about
9 it?

10 THE COURT: One at a time.

11 MR. CARMODY: Sorry.

12 THE COURT: One at a time.

13 MR. CARMODY: Sorry. That's my fault.

14 THE COURT: Question?

15 THE WITNESS: So I was just --

16 BY MR. CARMODY:

17 Q. Do you want to finish, sir?

18 THE COURT: Wait, wait, wait.

19 Let's have a question.

20 BY MR. CARMODY:

21 Q. Does Google stand by its research finding in PX2 that all
22 participants expected turning off the toggle, the WAA toggle,
23 to stop their activity from being saved? Can I hold --

24 A. Yes.

25 Q. Can we hold --

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1 **THE COURT:** Okay. So we'll see you tomorrow.

2 **MR. HUR:** Thank you, Your Honor.

3 **THE COURT:** Thank you.

4 **THE COURTROOM DEPUTY:** Court stands in recess.

5 (Proceedings adjourned at 1:29 p.m.)

6 ---o0o---

7

8 **CERTIFICATE OF REPORTER**

9 I certify that the foregoing is a correct transcript
10 from the record of proceedings in the above-entitled matter.

11

12 DATE: Wednesday, August 20, 2025

13

14

15

16 Ana Dub

17 _____
18 Ana Dub, RDR, RMR, CRR, CCRR, CRG, CCG

19 CSR No. 7445, Official United States Reporter
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**Steve Ganem, Google
Anibal "Pete" Rodriguez
Julian Santiago**

1 And we looked at this before. Do you remember when it
2 laid out the activity, and it says, "To let Google save this
3 information, Web & App Activity must be on"?

4 **A.** Yes.

5 **Q.** All right. If Google saves your app activity data even
6 when WAA is turned off, then is the statement that "To let
7 Google save this information, Web & App Activity must be on,"
8 in your view, is that true or false?

9 **A.** It's false.

10 **Q.** Now that you know that Google was collecting, saving, and
11 using your app activity data this entire time, describe how
12 that's affected you.

13 **A.** Well, Google has a ton of information on us that they
14 never had our permission to have. We have no idea what they're
15 doing with it, what they will do with it. It's concerning.

16 **Q.** And do you feel that Google taking your information is
17 highly offensive?

18 **A.** Yeah. Yes.

19 **Q.** Explain why.

20 **A.** Misleading people is highly offensive. Taking people's
21 information without their permission, that's highly offensive.
22 Making a fake button that deceives people is highly offensive
23 as well.

24 **Q.** Now, after you joined the lawsuit because Google was
25 collecting your browsing activity even with WAA off, did you

1 stop using your apps?

2 **A.** No, I did not.

3 **Q.** Why not?

4 **A.** Well, a few reasons. Firstly, Google should have to
5 change. Google should make a privacy button that actually
6 works and honor its promises to its users.

7 And, secondly, as a class representative, it is my
8 responsibility to this class to maintain my same behaviors so
9 that our experts can do their work, and they've done a
10 phenomenal job at that, to be able to confirm what Google was,
11 indeed, collecting; and, finally, for legal reasons, to get
12 Google to change its practices.

13 **Q.** Did knowing that Google collected and saved your app
14 activity after the lawsuit, did it change how you used certain
15 apps?

16 **A.** I would say so, yeah.

17 **Q.** Tell me more about that.

18 **A.** Well, I was certainly more cautious with certain apps and
19 probably veered away from some altogether, maybe some of the
20 social media apps. So it definitely affected the number of
21 apps that I was using.

22 **Q.** Do you have an understanding, Mr. Santiago, one way or
23 another, that Google compromises the bandwidth or data on your
24 phone, as well as the battery life on the device, by taking
25 this sWAA data even when you have WAA off?

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1 my best, because I don't.

2 But fantasy football involves having a team that you own.
3 You can draft players from different teams around the NFL to
4 create your own team. There's a point-scoring system based on
5 the players you have on your team, and you compete with other
6 team owners who do the same thing, usually a group of friends.
7 Is that fair?

8 A. Yeah, that sounds right.

9 Q. Often there's a cash prize at the end. Everybody
10 contributes money, and there can be a cash prize at the end
11 that can be real money; true?

12 A. There can be, yes.

13 Q. How long have you played fantasy football?

14 A. I'd say, I guess, about ten -- ten-ish years.

15 Q. Okay. The sports network ESPN has an app for fantasy
16 football; yes?

17 A. They do, yes.

18 Q. It's on this screen here under "ESPN Fantasy." Do you see
19 that?

20 A. Yes.

21 Q. Did you check the terms of service and privacy policy for
22 the ESPN Fantasy app?

23 A. Yes, I do, and I remember bringing up to my league mates
24 about switching after I found out that ESPN Fantasy had Google
25 SDKs.

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1 And, you know, it's difficult -- it's a huge ask to ask
2 people to not use all of their apps on their phone and
3 basically not use their phones unless -- there shouldn't be
4 tracking on it. And unfortunately, I was overruled in my
5 fantasy league and we continue using that app.

6 Q. Do you use it today?

7 A. I believe there will be a league with that app, yes.

8 Q. Well, the league starts in two weeks.

9 A. Yes.

10 Q. You've already done your draft. I know you've probably
11 done your draft by now.

12 A. I have not, no.

13 Q. Okay.

14 A. It's coming up.

15 Q. But the point is, your league with you and your friends,
16 you're going to continue to use the app that we have
17 highlighted here, ESPN Fantasy; yes?

18 A. Yes. It's difficult to be able to go somewhere else. If
19 we switch to another app, how do we know if the other app has a
20 Google SDK as well? We can't look that up anywhere.

21 Q. Sir --

22 A. We don't know where -- if the other apps have SDKs.

23 Q. Sir, you are aware there are countless websites competing
24 every day for fantasy participants, for gambling participants
25 around the NFL. They're everywhere. They are literally

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1 everywhere, competing with each other, offering to port over
2 your data from one fantasy app to another fantasy app. You
3 know that, don't you?

4 **A.** There's also 12 other people in the league that need to be
5 willing to change. It's not just up to me. And like I said,
6 let's say we do switch apps. Let's say we go to another
7 fantasy app in this example. How do we know the other fantasy
8 app doesn't have a Google SDK as well? It's everything. It's
9 everywhere. What do you want us to do? Not use our phones?

10 **Q.** I don't see Bleacher Report on this list. That's a
11 sports-related site, isn't it?

12 **A.** Bleacher Report is a sports-related site. They don't
13 offer fantasy football.

14 **Q.** Hmm. That's a sport-related app that you have; correct?

15 **A.** I do.

16 **Q.** That advertises alternatives to ESPN Fantasy; correct?

17 **A.** I -- I imagine -- I don't know their advertisers, but they
18 do not have a fantasy option of their own.

19 **Q.** All right. Well, we're talking about -- let's be clear.
20 We're talking about fantasy football here. That's what we're
21 talking about; right?

22 **A.** Sure.

23 **Q.** You used the ESPN Fantasy app before you saw the movie;
24 correct?

25 **A.** Yes, I'd say so.

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1 Q. Before you turned sWAA and WAA off; correct?

2 A. Yes.

3 Q. Before you joined this lawsuit; correct?

4 A. Correct.

5 Q. And you used ESPN Fantasy app after you saw the movie,
6 after you turned off WAA and sWAA, and after you joined this
7 case and you use it to this day; correct?

8 A. That's correct. And it is my responsibility to this
9 class, as previously mentioned, to continue those behaviors,
10 to -- so we can figure out what Google is collecting, where
11 that information is being stored, and so we can get Google to
12 delete that information. There are reasons for me continuing
13 to use that. If I stop using these apps, you're going to say
14 that I'm no longer in harm.

15 MR. ATTANASIO: Your Honor, objection.

16 Non-responsive. Move to strike everything after "That's
17 correct."

18 THE COURT: Overruled.

19 BY MR. ATTANASIO:

20 Q. Mr. Santiago, after you joined the case in November 2020,
21 you also continued to use the app that was then called Twitter;
22 correct?

23 A. I'd say on and off.

24 Q. You continued to use it on and off; is that fair?

25 A. Yes.

CERTIFICATE OF REPORTER

I certify that the foregoing is a correct transcript
from the record of proceedings in the above-entitled matter.

DATE: Thursday, August 21, 2025

Ana Dub

Ana Dub, RDR, RMR, CRR, CCRR, CRG, CCG

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Volume 4

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

Before The Honorable Richard Seeborg, Judge

ANIBAL RODRIGUEZ, et al.,)
individually and on behalf of)
all others similarly situated,)

Plaintiffs,)

VS.)

GOOGLE LLC,)

Defendant.)
_____)

NO. 3:20-CV-04688 RS

San Francisco, California

Thursday, August 21, 2025

TRANSCRIPT OF JURY TRIAL PROCEEDINGS

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Also Present:

**Steve Ganem, Google
Anibal "Pete" Rodriguez
Julian Santiago**

1 Q. Well, in your deposition, you didn't say, "This is very
2 far afield." You just simply admitted -- in fact, I think you
3 explained to me in a long monologue that this was very
4 frustrating, but Google did it to protect user privacy. That's
5 what you said, did you not?

6 A. Yes.

7 Q. Okay. Now, you do not believe that your use of
8 Google Analytics has materially increased anyone's risk. You
9 have said that; right?

10 A. Yes, I said that.

11 Q. You had tracking pixels on your own website at the time
12 this case was filed?

13 A. Yes.

14 Q. They were on your website when we last met at your
15 deposition?

16 A. Yes.

17 Q. And I asked you at your deposition: How can you square
18 the plaintiffs' position in this case with the fact that you
19 yourself were using Google Analytics on your website? You
20 remember I asked you that?

21 A. Yes.

22 Q. And you said that you didn't believe that using
23 Google Analytics on your website would materially increase
24 anyone's risk. You said that?

25 A. Yes.

1 Q. Now, after I suggested to you at your deposition that it
2 might be a problem that you're criticizing Google Analytics on
3 the one hand and using it on the other, you removed
4 Google Analytics from your website, did you not?

5 A. Sometime later, I decided that I didn't want to share my
6 website visitor data with Google because I was getting the idea
7 that Google could use that data against me, and I decided not
8 to use that.

9 And, in fact, I've actually decided not to use a whole
10 bunch of Google products. I've -- just for my own reasons,
11 I've stopped using Gmail. I've stopped using Chrome. I'm
12 using Proton Mail. I'm using the Vivaldi browser. I'm using
13 DuckDuckGo. And I'm doing all right.

14 Q. You were deposed in the summer of 2023; right,
15 Dr. Hochman?

16 A. Yes.

17 Q. You were hired for this case a couple of years earlier;
18 right?

19 A. Yeah. There was -- I guess it might have been in 2022
20 that I was hired.

21 Q. So for a year, you maintained Google Analytics on your
22 website; right?

23 A. Yes.

24 Q. Then I deposed you?

25 A. Yes.

1 Q. And I suggested to you that it didn't look very good that
2 you were using Google Analytics while criticizing it; right?

3 A. You said that, sure.

4 Q. I said that. And sometime after that, you went and you
5 took it off your website? True or false?

6 A. That's true.

7 Q. When this case is over and the jury has done their work
8 and these lawyers aren't paying you anymore, are you going to
9 put Google Analytics back on your website?

10 A. Absolutely not.

11 Q. Dr. Hochman, you agree with me that Google Analytics is
12 not showing app developers personally identifiable information;
13 right? You've said that?

14 A. I've used it and I haven't seen that, so yes.

15 Q. Now, you are not -- just to be perfectly clear for this
16 jury, you are not offering an expert opinion about what is or
17 is not personally identifiable information; right?

18 A. Oh, yeah. I heard you use that term before in an
19 objection. I wanted to clarify it. Thanks for the
20 opportunity.

21 Q. Dr. Hochman, I'm sorry, but the time to clarify is with
22 your counsel. I asked you a very simple question.

23 A. Okay.

24 Q. You are not offering an opinion in this case about what is
25 or is not personally identifiable information?

1 policy and the privacy controls that were offered, is that how
2 you came across WAA?

3 A. Yes.

4 Q. Did you -- when you saw the WAA disclosures and the
5 privacy button that is either both WAA and sWAA, did you turn
6 it off after reading the privacy policy?

7 A. Yes.

8 Q. Let's put up on the screen what's been previously admitted
9 as PX62.

10 Do you recognize this document, Mr. Rodriguez?

11 A. Yes.

12 Q. Did you read this privacy policy prior to the lawsuit?

13 A. Yes.

14 Q. And can you read the effective date on there?

15 A. It says effective May 25th, 2018.

16 Q. And could you please read out loud to the jury the first
17 paragraph that's in bold letters?

18 A. [as read]:

19 "When you use our services, you're trusting us
20 with your information. We understand that this is a
21 big responsibility and work hard to protect your
22 information and put you in control."

23 Q. All right. Let's go down two paragraphs on the same page.

24 And, by the way, is this -- what page are we on right now?

25 Do you know?

1 A. The policy -- the privacy policy.

2 Q. Yeah. Is it the first page?

3 A. Yes.

4 Q. All right. Let's go down, yeah, two paragraphs.

5 And do you see the sentence at the end of that paragraph,
6 beginning with "Across our services"?

7 A. Yes.

8 Q. Could you read that to the jury?

9 A. [as read]:

10 "And across our services you can adjust your
11 privacy setting" -- "settings to control what we
12 collect and how your information is used."

13 Q. What is your understanding of what Google means when it
14 says you can control what we collect?

15 A. It means I can control what they can collect as far as my
16 information.

17 Q. And what's your understanding of what Google means here
18 when it says you can control how your information is used?

19 A. Exactly that, that I can control how it can be used.

20 Q. According to the first page of the privacy policy, who's
21 in control of what information Google is allowed to collect and
22 use?

23 A. Me.

24 Q. All right. Let's go -- let's continue on down the privacy
25 policy on page 8.

1 Do you see there's a section in the privacy policy that
2 presents you the privacy controls?

3 A. Yes.

4 Q. And did you see this privacy control section when you
5 reviewed this document back in 2018?

6 A. Yes.

7 Q. Now, from here, can you explain to the jury how you get to
8 the WAA button?

9 A. There is a link there that says, "Go to activity
10 controls."

11 Q. Okay. Let's take a look at PX84, also already in
12 evidence.

13 And is this what is displayed when you click that link?

14 A. Yes. Similar, yes.

15 Q. Okay. Now, what was your understanding of what these
16 buttons do?

17 So let's start with the Web & App Activity, and we can
18 snip out -- we can also include the subsettings.

19 What was your -- so do you see at the top there's
20 Web & App Activity?

21 A. Right.

22 Q. And then below, there's the subsettings?

23 A. Yes.

24 Q. Okay. What was your understanding of what these buttons
25 do when they're on? Let's start with WAA.

1 A. So if it's on, it does save your activity on Google sites
2 and apps, including associated info, like location.

3 Q. All right. And how about sWAA? We've been calling it
4 sWAA, but here it's labeled as the subsettings. Do you see
5 that?

6 A. Right.

7 Q. What happens if a user turns sWAA on?

8 A. sWAA leaves -- okay -- include Chrome history and activity
9 from sites, apps, and devices that use Google services.

10 Q. So Google can save all those things if sWAA is on?

11 A. Right.

12 Q. And if you turn WAA off, by the way, what would happen
13 with sWAA?

14 A. It automatically gets turned off.

15 Q. So they both turn off?

16 A. Right.

17 Q. Do you see here at the top of Web & App Activity it says
18 "Learn more"?

19 A. Yes.

20 Q. Do you remember clicking that back in 2018?

21 A. Yes.

22 Q. All right. Let's take a look at what's been premarked as
23 Exhibit 104.

24 THE COURTROOM DEPUTY: Has that been admitted?

25 MR. LEE: Not yet. I'm going to do it right now.

1 **BY MR. LEE:**

2 **Q.** Mr. Rodriguez, did you review this disclosure in 2018?

3 **A.** Yes.

4 **MR. LEE:** Your Honor, may I admit PX104 into evidence?

5 **MS. AGNOLUCCI:** No objection, Your Honor.

6 **THE COURT:** 104 will be admitted.

7 (Trial Exhibit PX104 received in evidence.)

8 **MR. LEE:** All right. It's up.

9 **BY MR. LEE:**

10 **Q.** Do you see here where the disclosure states what's saved
11 as Web & App Activity?

12 **A.** Yeah, I see that.

13 **Q.** I know it has a weird formatting thing, but just bear with
14 me. Okay?

15 **A.** Sure.

16 **Q.** Based on Google's disclosure, what activity does Google
17 say that it saves when WAA is on?

18 **A.** It says websites and apps you use -- that I use.

19 **Q.** Mm-hmm.

20 **A.** Your activity on websites and in apps that use Google
21 services.

22 **Q.** Okay. Do you see below there, Google also states, "To let
23 Google save this information, Web & App Activity must be on"?

24 **A.** Yes.

25 **Q.** All right. What's the opposite of on?

1 A. Off.

2 Q. And based on these statements by Google, what's your --
3 what understanding did you have regarding the data Google is
4 not allowed to save when WAA is turned off?

5 A. That none of this information would be saved.

6 Q. And based on all the disclosures that we looked at, does
7 the WAA button and sWAA button control where Google saves your
8 app data or whether Google saves your app data?

9 A. Whether.

10 Q. Whether?

11 A. Right.

12 Q. After you read the privacy policy and these disclosures
13 about WAA, what did you do next?

14 A. I went on my phone and found the -- the activity controls
15 and turned off WAA from there.

16 Q. You did that from your Android phone?

17 A. My phone, yeah.

18 Q. All right. Let's take a look at PX120A, which is now in
19 evidence.

20 Are you familiar with these screens from the Android
21 phone?

22 A. Yes.

23 Q. And before you joined this lawsuit, did you check your
24 Android phone to make sure that these were the same screens as
25 what we have depicted here?

1 A. Yes.

2 Q. Now, at the top of screen one, do you see where -- it's at
3 the very top -- do you see where Google calls this entire
4 screen privacy?

5 A. Yes, I see it there.

6 Q. And then below, in the red box, do you see that there's
7 something called activity controls?

8 A. Yes.

9 Q. And what does it say? What's the description of activity
10 controls?

11 A. It says [as read]:

12 "Choose the activities and info you allow Google
13 to save."

14 Q. Now, by clicking "activity controls," does that take you
15 to the screen in the middle, the second screen?

16 A. Yes.

17 Q. And do you see the WAA and swAA button presented there?

18 A. I do.

19 Q. And there's a smaller box below Web & App Activity that
20 has a "Learn more" link. Do you see that?

21 A. Yes.

22 Q. All right. And does clicking that take us to Screen 3?

23 A. Yes, it does.

24 Q. Now, based on Screen 3 -- let's blow that up a little,
25 Screen 3 -- what activity does Google say it saves when WAA is

1 on, starting at the top there?

2 **A.** Sure. Info about your browsing and other activities on
3 sites, apps, and devices that use Google services.

4 **Q.** And what about the two bullets there?

5 **A.** Yeah. Sites and apps that partner with Google to show ads
6 and sites and apps that use Google -- service -- services,
7 including data apps that share with Google.

8 **Q.** And do you see in the box below, it says, "To let Google
9 save this information, Web & App Activity must be on"?

10 **A.** Yes.

11 **Q.** So what should happen when you turn Web & App Activity
12 off?

13 **A.** Like before, everything that it says it would save, it
14 should not save.

15 **Q.** All right. You mentioned that you have a specific memory
16 of reading the Google privacy policy and disclosures about
17 WAA --

18 **A.** Right.

19 **Q.** -- and turning off WAA in 2018?

20 **A.** Right.

21 **Q.** Okay. So let's just set the stage for that. Let's take a
22 look at DX 941.R2, which is already in evidence.

23 This document was shown during Mr. Monsees' examination,
24 as well as Mr. Santiago's examination. Do you remember that?

25 **A.** Yes.

CERTIFICATE OF REPORTER

I certify that the foregoing is a correct transcript
from the record of proceedings in the above-entitled matter.

DATE: Friday, August 22, 2025

Ana Dub

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